

Untitled

August 2, 2000

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28 State Street
Boston, MA 02109-1775

John Shortleeve, Esq.
70 Bailey Road
Haverhill, MA 01830

Re: Petition of Massachusetts Electric Company, D.T.E. 00-37

Dear Ms. Olton and Messrs. Fazzone and Shortleeve:

The Restructuring Act (St. 1997 c. 164), provides that any municipality receiving streetlighting service from an electric company pursuant to a tariff that provides for the use of streetlighting equipment owned by the electric company, may purchase such equipment and convert its streetlighting service from the subject tariff to an alternative tariff approved by the Department of Telecommunications and Energy ("Department"). G.L. c. 164, § 34A(a). The Restructuring Act also provides that any dispute concerning the terms of the alternative tariff, the compensation to be paid to the electric company for selling its streetlighting equipment, or any other matter arising in connection with the municipal purchase of streetlighting equipment shall be resolved by the Department. G.L. c. 164, § 34A(d). (1)

On April 25, 2000, Massachusetts Electric Company ("MECo" or "Company") submitted a request for resolution of a dispute ("MECo Petition") regarding MECo's sale of streetlighting equipment to the City of Haverhill ("Haverhill" or "City"). MECo requested the Department to declare that the underground conduits and cables dedicated to serving the streetlights that Haverhill acquired, be included in MECo's transfer of streetlights to Haverhill (MECo Petition at 1). Haverhill claims that it did not purchase such underground conduits and cables (id. at 4). The Department docketed this matter as D.T.E. 00-37.

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On June 9, 2000, pursuant to a request from the Hearing Officer, MECo and Haverhill filed a joint memorandum stipulating the facts and conclusions of law on which MECo and the City agree and disagree on ("Joint Memo"). MECo and Haverhill also submitted separate documents containing requested findings of fact and conclusions of law in support of their respective positions ("MECo Memo" and "Haverhill Memo" respectively).

Any municipality may acquire "all or any part of the streetlighting equipment" that is owned by the electric company and that is serving such municipality pursuant to a tariff. G.L. c. 164, § 34A(b). "All or any part of streetlighting equipment" does not mean that a municipality can choose to own certain types of streetlighting equipment. Instead, when a municipality purchases a streetlight, it must purchase all equipment integrally related to the function of such streetlight. The Department has found that:

[i]n determining the equipment subject to municipal purchase, the Department will consider whether the purpose of the equipment is to provide distribution service If the equipment serves no purpose in the distribution system, it should be considered streetlighting equipment [T]he Department will consider individual streetlights to be an integral facility consisting of luminaires, lamps, ballasts, photocells, brackets, conductors from the luminaire to the distribution connection, and dedicated poles where applicable. Purchase of individual components of an integral facility would be an administratively burdensome and inefficient process. Therefore, where a municipality decides to purchase individual streetlights, it must purchase the integral facility. This would include dedicated poles where applicable.

Joint Petition of Towns of Acton and Lexington, D.T.E. 98-89, at 3 (1999)

("D.T.E. 98-89"). (2) Accordingly, the Department requires electric companies to provide municipalities an opportunity to acquire any of its streetlights dedicated to serving such municipality as an "integral facility."

Also, in determining an alternative streetlight tariff for MECo, pursuant to G.L. c. 164, § 34A, the Department found that:

[t]he foundations, conduits, and other underground equipment that do not support utility service are not part of the distribution system. Conversely, those that do, are. Therefore, consistent with D.T.E. 98-89, the Department finds that the foundations, conduits, and other underground equipment that are not part of the distribution system are part of streetlighting equipment. The record in [D.T.E. 98-69] supports a finding that all equipment in Account 373 serves no purpose in the distribution system. (3) Accordingly, all equipment included in Account 373 shall be subject to sale and shall be removed from the rate base allocated to Rate S-5. (4)

Massachusetts Electric Company, D.T.E. 98-69, at 18 (1999) ("D.T.E. 98-69"). Haverhill was a party to this proceeding.

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Thus, when purchasing streetlights, a municipality shall purchase all equipment, including underground conduits and cables, whose sole purpose is to serve those purchased streetlights. Conversely, if such equipment supports the operation of the distribution system or the streetlights the City does not own, then such equipment would not be considered an integral facility and consequently would not be subject to sale to a municipality. Therefore, based upon our review of the MECo Petition, Joint Memo, MECo Memo, Haverhill Memo,

and consistent with D.T.E. 98-69 and D.T.E. 98-89, we find that each streetlight Haverhill chooses to purchase must include the integral facility, which includes underground conduits and cables whose sole purpose is to serve such streetlight.

Sincerely,

James Connolly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

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Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

cc: Mary Cottrell, Secretary

1. In Massachusetts Electric Company, D.T.E. 98-69, the Department approved Massachusetts Electric Company's alternative streetlighting tariff, S-5, for municipal customers that choose to purchase streetlighting equipment pursuant to G.L. c. 164,

§ 34A.

2. In D.T.E. 98-89 the Department, pursuant to G.L. c. 164, § 34A, resolved a dispute between Boston Edison Company and the Towns of Acton and Lexington. The Department found that the bracket connecting a streetlight to a utility pole is an integral component of the streetlight and must be included in the purchase of such streetlight.

3. The Department requires that electric companies adhere to the Federal Energy Regulatory Commission ("FERC") System of Accounts. The costs for streetlighting service are collected in Account 373. D.T.E. 98-69, at 30. The FERC system of accounts defines Account 373, Streetlighting and Signal Systems, as including "the cost installed of equipment used wholly for public street and highway lighting or traffic, fire alarm, police, and other signal systems." *Id.*

4. Under rate S-5, the MECo municipal customer would own and maintain the purchased streetlighting equipment, and the Company would collect its costs associated with delivering power to the customer's streetlight through a distribution charge. D.T.E. 98-69, at 1.